

## 123A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Affected party*" means a wholesaler, brewer, master distributor, successor brewer, or any person that is a party to an agreement.
2. "*Agreement*" means a contract or arrangement whether expressed or implied, oral or written, for a definite or indefinite period between a brewer and a wholesaler pursuant to which a wholesaler has been granted the right to purchase, resell, and distribute one or more brands of beer offered by a brewer, or a contract or arrangement in which a brewer grants to a wholesaler a license to use a trade name, trademark, service mark, or related characteristic and in which there is a community of interest in the marketing of the products of the brewer. An agreement exists when one or more of the following occur:
  - a. A brewer has shipped beer to a wholesaler or accepted an order for beer from a wholesaler.
  - b. A brewer purchases the right to manufacture a beer product, the right to use the trade name for the product, or the right to distribute a product from another brewer with whom the wholesaler has an agreement.
3. "*Beer*" means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops with or without unmalted grains or decorticated and degerminated grains, or made by the fermentation of, or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than five percent of alcohol by weight, but not including mixed drinks or cocktails mixed on the premises.
4. "*Brand*" means a word, name, group of letters, symbol, or a combination of words, names, letters, or symbols adopted and used by a brewer to identify a specific beer product, and to distinguish that beer product from other beer products brewed or marketed by that brewery or other breweries.
5. "*Brand extension*" means a brand which incorporates all or a substantial part of the unique features of a preexisting brand of the same brewery and which relies to a significant extent on the goodwill associated with the preexisting brand. However, a general corporate logo or symbol or an advertising message, whether appearing on the product packaging or elsewhere, is not a brand, brand extension, or part of a brand or brand extension.
6. "*Brewer*" means a person who is engaged in the manufacture of beer for the purpose of sale, barter, exchange, or transportation, a master distributor, or a fermenter, processor, bottler, packager, or importer of beer, or a successor brewer.
7. "*Designated member*" means a deceased wholesaler's spouse, child, grandchild, parent, brother, or sister, who is entitled to inherit the deceased wholesaler's ownership interest under the terms of the deceased wholesaler's will, other testamentary device, or the laws of intestate succession. With respect to an incapacitated individual having an ownership interest in a wholesaler, "*designated member*" also means a person appointed by the court as the conservator of the individual's property. "*Designated member*" also includes the appointed and qualified personal representative and the testamentary trustee of a deceased wholesaler.
8. "*Good cause*" exists if the wholesaler or affected party has failed to comply with reasonable requirements which are imposed upon the wholesaler or affected party through an agreement, which do not discriminate either by their terms or in the methods of their enforcement as compared with requirements imposed on other similarly situated wholesalers by the brewer, and which are not in violation of any law or administrative rule.

9. "*Good faith*" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade and defined and interpreted under section 554.2103.\*

10. "*Manager*" means an individual named or designated by agreement between the brewer and wholesaler, who is principally responsible for the daily management of the wholesaler.

11. "*Master distributor*" means a wholesaler who acts in the role of or in a similar capacity as a brewer or outside seller of one or more brands of beer to other wholesalers on a regular basis in the normal course of business.

12. "*Reasonable standards and qualifications*" means those criteria applied by the brewer to similarly situated wholesalers during a period of twenty-four months before a proposed change in a successor manager of the wholesaler's business.

13. "*Similarly situated wholesalers*" means wholesalers of a brewer that are of a generally comparable size, and operate in markets with similar demographic characteristics, including population size, density, distribution, and vital statistics, and reasonably similar economic and geographic conditions.

14. "*Successor brewer*" means a person who succeeds to the role of a brewer or master distributor to manufacture or distribute one or more brands of beer whether by merger, purchase of corporate shares, purchase of assets, or any other arrangement.

15. "*Successor manager*" means an individual named or designated by agreement between a brewer and wholesaler who succeeds to the role of manager who will be principally responsible for the daily management of the wholesaler.

16. "*Territory*" means the geographic area of primary sales responsibility designated by an agreement between a wholesaler and brewer for one or more brands of beer of the brewer.

17. "*Wholesaler*" means a person, other than a vintner, brewer, or bottler of beer, who sells, barter, exchanges, offers for sale, possesses with intent to sell, deals, or traffics in beer.

95 Acts, ch 101, §2

\*Section 554.1201 probably intended; corrective legislation is pending